

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

FRANKLIN KINSEY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:22-CV-65 ACL
	)	
SOUTHEAST CORRECTIONAL CENTER,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court upon the filing of a letter, dated May 11, 2022, by Franklin Kinsey,<sup>1</sup> an inmate at Southeast Correctional Center. ECF No. 1. The letter alleges various Eighth Amendment violations and appears to be an attempt to initiate a prisoner civil rights complaint under 42 U.S.C. § 1983. This filing, however, is defective as a complaint commencing a civil case because it was not drafted on a Court-provided form. *See* Local Rule 2.06(A) (“All actions brought by self-represented plaintiffs . . . should be filed on Court-provided forms”). Additionally, although plaintiff asserted the institution refused to provide her with an inmate account statement, *see* ECF No. 2 at 2, she has not submitted an application to proceed without prepaying fees or costs. *See* 28 U.S.C. § 1915(a)(1). In consideration of plaintiff’s self-represented status, the Court will direct her to submit an amended complaint on a Court-provided form, and to either pay the \$402.00 filing fee or file a motion to proceed *in forma pauperis*.

As to plaintiff’s submission of an amended complaint, the Court warns that the filing of an amended complaint replaces the original filing, and so it must include all claims plaintiff wishes to bring. *See In re Wireless Telephone Federal Cost Recovery Fees Litigation*, 396 F.3d 922, 928

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<sup>1</sup> Plaintiff states she identifies as a trans-woman. ECF No. 1 at 3. The Court will, therefore, use the pronouns “she” and “her” when referring to plaintiff.

(8th Cir. 2005) (“It is well-established that an amended complaint supersedes an original complaint and renders the original complaint without legal effect”). Plaintiff must type or neatly print the amended complaint on the Court’s prisoner civil rights complaint form, which will be provided to her.

In the “Caption” section of the amended complaint, plaintiff must state the first and last name, to the extent she knows it, of each defendant she wishes to sue. *See* Fed. R. Civ. P. 10(a) (“The title of the complaint must name all the parties”). Plaintiff must *avoid* naming anyone as a defendant unless that person is directly related to her claim. Plaintiff must also specify whether she intends to sue each defendant in his or her individual capacity, official capacity, or both.

In the “Statement of Claim” section, plaintiff should begin by writing the defendant’s name. In separate, numbered paragraphs under that name, plaintiff should set forth a short and plain statement of the facts that support her claim or claims against that defendant. *See* Fed. R. Civ. P. 8(a). Each averment must be simple, concise, and direct. *See id.* Plaintiff must state her claims in numbered paragraphs, and each paragraph should be “limited as far as practicable to a single set of circumstances.” *See* Fed. R. Civ. P. 10(b). For example, plaintiff should write the name of the first defendant and in numbered paragraphs under that name state how that specific defendant violated her constitutional rights. Plaintiff should repeat this format for every named defendant. Plaintiff should *not* include any introductory paragraphs.

If plaintiff names a single defendant, she may set forth as many claims as she has against that defendant. *See* Fed. R. Civ. P. 18(a). If plaintiff names more than one defendant, she must only include claims that arise out of the same transaction or occurrence, or simply put, claims that are related to each other. *See* Fed. R. Civ. P. 20(a)(2). Plaintiff cannot join, in a single lawsuit,

multiple claims against different defendants related to events arising out of different transactions or occurrences.

It is important that plaintiff allege facts explaining how each defendant was personally involved in or directly responsible for harming her. *See Madewell*, 909 F.2d at 1208. Plaintiff must explain the role of the defendant, so the defendant will have notice of what he or she is accused of doing or failing to do. *See Topchian v. JPMorgan Chase Bank, N.A.*, 760 F.3d 843, 848 (8th Cir. 2014) (stating that the essential function of a complaint “is to give the opposing party fair notice of the nature and basis or grounds for a claim”). The Court emphasizes that the “Statement of Claim” requires more than “labels and conclusions or a formulaic recitation of the elements of a cause of action.” *See Neubauer v. FedEx Corp.*, 849 F.3d 400, 404 (8th Cir. 2017). Plaintiff must not amend a complaint by filing separate documents. Instead, she must file a single, comprehensive pleading that sets forth her claims for relief.

Lastly, plaintiff has filed a motion for appointment of counsel. ECF No. 2. Plaintiff’s request will be denied at this time. Although plaintiff has alleged constitutional violations, none of her claims have been reviewed by this Court or survived frivolity review as she has yet to submit a proper complaint on a Court-form identifying the specific defendants she wishes to sue.<sup>2</sup> Thus, counsel is simply not warranted at this time. Plaintiff may, of course, move for counsel at a later time, if it appears that counsel is warranted if this case progresses.

Accordingly,

**IT IS HEREBY ORDERED** that the Clerk of Court shall mail to plaintiff two blank Prisoner Civil Rights Complaint forms. Plaintiff may request additional forms as needed.

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<sup>2</sup> Pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court must dismiss a complaint filed *in forma pauperis* if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief.

**IT IS FURTHER ORDERED** that the Clerk of Court is directed to mail plaintiff a copy of the Court's 'Application to Proceed in District Court without Prepaying Fees or Costs' form.

**IT IS FURTHER ORDERED** that plaintiff shall file an amended complaint on the Court-provided form within **thirty (30) days** of the date of this Order. Plaintiff is advised that her amended complaint will take the place of her original filing and will be the only pleading that this Court will review.

**IT IS FURTHER ORDERED** that plaintiff must either pay the \$402 filing fee or submit an application to proceed without prepaying fees or costs within **thirty (30) days** of the date of this Order.

**IT IS FURTHER ORDERED** that plaintiff's motion for appointment of counsel [ECF No. 2] is **DENIED** at this time without prejudice.

**IT IS FINALLY ORDERED** that if plaintiff fails to comply with this Order, the Court will dismiss this action without prejudice and without further notice.

Dated this 23<sup>rd</sup> day of May, 2022.



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ABBIE CRITES-LEONI  
UNITED STATES MAGISTRATE JUDGE